(21)

HIGH COURT OF CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

M.A.C. No. 144 of 2007

Appellant Claimant	Smt Dulari Bai W/o kanhaiya lal Kashyap, Aged about 35 years, R/o village-Ringni, Post-Kesda, P.S. Simga, Distt. Raipur (CG)
	Versus
Respondents (Non-applicants before the Tribunal	1. Kanhaiya Lal Kashyap S/o Sahdeo Kashyap Aged about – 38 years, Cultivator R/o Ringni, Post-Kesda, P.S. Simga, Distt. Raipur (CG) (Owner of the Tractor No. CIS 8686) 2. Manager, National Insurance Company, Mobin Mahal, G.E. Road, Raipur, Post-Raipur, Distt-Raipur (CG)

Appeal under Section 173 of Motor Vehicle Act for the enhancement of the award

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Present: Shri C.R. Sahu, counsel for the appellant.
Shri Dashrath Gupta, counsel for respondent No.2/Insurance Company.

ORAL ORDER
(Passed on 04.12.2007)

Heard finally.

(2) Brief facts are that on 28.2.1986 due to sudden acceleration of the tractor by its driver, Heera Singh, son of the appellant/claimant while boarding the trolley attached to the said tractor No. CIS 8686 fell and died. The Motor Accidents Claims Tribunal, Raipur (hereinafter referred to as the 'M.A.C.T') by the order dated 12.12.1994 dismissed the application for compensation on the ground that the driver was not negligent. In Miscellaneous Appeal No.300/1995, by order dated 06.07.2006, a finding was recorded by this Court that the accident took place due to the rash and negligent driving by the driver due to which death of Heera Singh occurred.

The case was remitted to the M.A.C.T for recording finding on other issues. The M.A.C.T has, by the impugned order dated 11.01.2007, awarded a lump sum compensation of Rs.15,000/- being an amount payable on principle of 'no fault liability' under Section 92 of the Motor Vehicles Act,1939 with 9% interest from the date of application i.e. 28.8.1986 till realization.

(3) The only point urged by the learned counsel for the appellant in this appeal is that the M.A.C.T ought to have awarded compensation under conventional heads of funeral expenses and loss of love and affection. No other point was urged. Shri Dashrath Gupta, learned counsel for the respondent No.2/Insurance Company does not oppose the prayer.

(4) The only point that arises for consideration is what amount should be awarded under the conventional heads of funeral expenses and loss of love and affection. Considering the date of accident i.e. 28.2.1986 and the facts and circumstances, a sum of Rs.2,000/- is awarded towards funeral expenses and a sum of Rs.8,000/- is awarded towards loss of love and affection to the appellant/claimant/mother.

(5) In this view of the matter, the compensation awarded by the M.A.C.T. is enhanced by an additional sum of Rs.10,000/-. The respondent/insurance company shall be liable to pay total compensation of Rs.25,000/- along with interest at the rate of 9% per annum from 28.8.1986 till realization.

Sd/-
Dilip Raosaheb Deshmukh
Judge